

STATE OF COLORADO

Department of State

1700 Broadway

Suite 250

Denver, CO 80290



Mike Coffman

Secretary of State

William A. Hobbs

Deputy Secretary of State

February 25, 2008

VIA EMAIL AND U.S. MAIL

Mr. Ed Smith

Compliance Manager

Sequoia Voting Systems

717 17th Street, Suite 310

Denver, CO 80222

Re: Colorado Voting System

Dear Mr. Smith:

Your company submitted a voting system to the Colorado Secretary of State to be tested and considered for certification for use in Colorado elections. On December 17, 2007, I notified you of the decertification of the Sequoia Edge II (including VeriVote; Edge Audio Unit; and Card Activator), Version Number 5.0.31 / 4.3 / 5.0 Rev. C and Edge II Plus (including HAAT Model 50, Version Number 1.2.33 Direct Record Electronic (DRE)) voting machines as well as the conditional certification of the WinEDS Software, the Optech Insight Precinct Scanner and the Optech 400-C Central Count Scanner.

On February 11, 2008, Governor Bill Ritter signed House Bill 08-1155 into law. This legislation extends my authority over the 2007 testing process and allows for additional testing and communication with the vendors and the counties. The legislation authorizes me to amend or rescind any of the orders I issued on December 17, 2007 decertifying a voting system if I re-test the system or otherwise demonstrate that the major deficiencies identified in my December 17 order have been resolved or mitigated. In deciding to amend or rescind an order, the legislation requires me to consider county accuracy and security procedures, audits, processing functions, and other relevant procedures in accordance with the laws and rules governing the conduct of elections.

The major deficiencies of the Edge II and Edge II Plus, as identified by my office, included a failure of the device to operate in a secured state requiring passwords; a failure to provide auditable data to detect security violations; and a failure to ensure that all electronic records have corresponding Voter Verifiable Paper Audit Trail (V-VPAT) records. These failures represent significant security and audit risks needed to protect the voter.

The V-VPAT record is an essential component of the DRE based on the audit and security issues identified by the Testing Board. A functioning V-VPAT off-sets various security risks and lack of passwords through the creation of a printed audit log detailing use of the machine and security violations as well as the paper record for voters to verify their votes cast.

With the Sequoia Edge II and Edge II Plus, it is difficult to determine whether or not the V-VPAT paper is correctly loaded. Improper loading of the V-VPAT paper results in the inability

to print an audit log or a record of votes cast on the device. The Testing Board concluded that a solution to the problem is to perform a "print test" and verify proper loading of the V-VPAT paper. Although the print test is not a requirement, it ensures proper recording of security and voter information relevant to the system.

During the testing process, no documentation supporting a print test was submitted to the Testing Board. On December 21, 2007, the documentation supporting the "print test" for the V-VPAT was submitted to the Testing Board and was tested to be effective in assuring the proper loading of the V-VPAT record, thereby mitigating previously identified security and audit risks.

Although the Testing Board tested voting systems for strict compliance with state law and the Secretary of State Election Rules, a voting system may be certified as long as it substantially complies with the requirements of the Colorado Election Code, the Secretary's Rules, and any additional testing required by this office. Section 1-1-103(3), C.R.S. (2007); Election Rule 45.3.2; Election Rule 45.6.3.1. A system substantially complies with the law if the purpose of the law is achieved despite the failure to strictly comply with each and every requirement.

I recognize that additional issues were identified by the Testing Board with respect to all components of the Sequoia voting system. However, in accordance with HB1155, I have considered additional information which I conclude has brought the Edge II and Edge II Plus DREs into substantial compliance with Colorado law. I therefore rescind my December 17, 2007 order regarding this equipment, and now order that this equipment is conditionally certified for use in the State of Colorado.

For the components or software listed above as conditionally certified, please review the conditions set out in the certification report "Sequoia Voting Systems Project Overview – A.3" (Project Overview), which is posted on the Secretary of State's website and is incorporated into this decision by reference, for information regarding the necessary conditions to be fulfilled in order for such equipment to be used.

This order does not preclude additional discussion regarding the conditions listed in the Project Overview. I encourage you, the vendor, and the counties using this equipment to submit alternate suggestions for mitigating the risks the conditions address.

Sincerely,



Mike Coffman
Secretary of State

cc: Representative Paul Weissmann, Chairman, House Committee on State, Veterans, & Military Affairs
Senator Abel Tapia, Chairman, Senate Committee on State, Veterans & Military Affairs
County Clerk and Records of counties using Sequoia voting systems:
Nancy Doty, Arapahoe County Clerk and Recorder
Stephanie O'Malley, Denver County Clerk and Recorder
Amy Fordyce, Elbert County Clerk and Recorder
Gilbert Ortiz, Pueblo County Clerk and Recorder